IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
JAIPUR BENCH

1. S.B. Civil Writ Petition No.1618/07
Bhagwan Sahai & Ors. Vs. Om Prakash Phulwaria & Ors.

2. S.B. Civil Writ Petition No.1621/07
Tejmal & Ors. Vs. Om Prakash Phulwaria & Ors.

16.04.2007

Hon'ble Mr. Justice Mohammad Rafiq

Shri N.K. Maloo for petitioner.

These two writ petitions have been filed by the petitioner against the common order passed by the learned Board of Revenue on 6.7.2006 whereby the Board while deciding four special appeals and three contempt petitions, dismissed the contempt petition with the finding that compliance of the judgment of the Single Bench of the Board dated 19.2.04 has

already been made on 25.4.2004 whereas the status quo order with regard to land in dispute was passed by the division bench of the Board on 11.6.04.

Shri N.K. Maloo, the learned counsel for the petitioner argued that the Board has neither taken into consideration the detailed averments made by the petitioner in the contempt petition with reference to records produced as also the fact that crop of the petitioner standing on the land was auctioned by the respondent in spite of such status quo order who was then Tehsildar, Chomu. He argued that the contempt petition was dismissed without even calling upon the said Tehsildar to submit his reply to such allegations. The Board held that contempt was not

maintainable merely on the basis of entires made in the `Ghatna Bahi' and did not take into consideration the fact that the possession as on the date of passing status quo order was with the petitioner. It was argued that though in substance the matter may not make any difference because the possession of the disputed land is still with the petitioner but because a finding thereabout has been recorded by the Board without taking into consideration the detailed assertions made by the petitioners in their contempt petition with reference to possession on the ground and on record, this finding will prejudice the case of the petitioner in their writ petitions filed against the judgments in the four special appeals

which are pending before this Court. Hence these writ petitions.

Having heard the learned counsel for the petitioner and perused the material on record, I find that when already the petitioners admits that the land in dispute is still in their possession and the controversy in the contempt petition was based on auction of the crop for a particular year, no useful purpose would be now served in entertaining these writ petitions against that part of the judgment by which the contempt petitions filed by the petitioners were dismissed. However, I deem it appropriate to set the petitioner at liberty to question the correctness of the finding in so far as the status of the land and their possession on such

land at the relevant time as recorded in para 19 of the impugned judgment in the writ petitions filed against the judgments passed in the special appeals.

With these observations, these writ petitions are dismissed.

(Mohammad Rafiq),J.

Rs/-